IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.M.JOSEPH

WEDNESDAY, THE 12TH DECEMBER 2007 / 21ST AGRAHAYANA 1929

W.P.(C).No.22250 of 2007(S)

PETITIONER:-

L.THANKAMMA
MYCOLOGIST (RETD)
RUBBER RESEARCH INSTITUTE OF INDIA,
T.C.NO. 226/VI,
PRASANTH NAGER,
THIRUVANATHAPURAM-695 011

BY SMT.L.THANKAMMA (PARTY-IN-PERSON)

RESPONDENTS:-

1. THE CHAIRMAN
   RUBBER BOARD,
   RUBBER BOARD HEAD OFFICE,
   SUB JAIL ROAD,
   KOTTAYAM - 686 002.

2. THE DIRECTOR
   RUBBER RESEARCH INSTITUTE OF INDIA
   KOTTAYAM-686 009.

3. UNION OF INDIA,
   REPRESENTED BY THE SECRETARY,
   MINISTRY OF COMMERCE AND SUPPLY,
   GOVERNMENT OF INDIA,
   NEW DELHI.

R1 & R2 BY ADV. SRI.JOSEPH MARKOSE
SRI.JOSEPH KODIANTHARA
SRI.TERRY V.JAMES

R3 ADDL.S.G. OF INDIA SRI.P.PARAMESWARAN NAIR
SMT.MOLY.E.V., CGC.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:-

APPENDIX

PETITIONER'S EXHIBITS:-

EXT.P1 - TRUE COPY OF PROJECT PROPOSAL.

EXT.P2 - TRUE COPY OF SCIENTIFIC PAPER, INCLINED UPWARD TAPPING IUT.

EXT.P3 - TRUE COPY OF LETTER FROM NEW AMBADY ESTATE.

EXT.P4 - NOTE OF JOINT DIRECTOR EXPLOITATION STUDIES, RUBBER RESEARCH INSTITUTE OF INDIA.

EXT.P5 - TRUE COPY OF LETTER FROM MINISTRY OF SCIENCE & TECHNOLOGY, GOVT. OF INDIA.

EXT.P6 - TRUE COPY OF SCIENTIFIC PAPER PUBLISHED IN KERALA SCIENCE CONGRESS ON IUT.

EXT.P7 - TRUE COPY OF THE FINAL TECHNICAL REPORT SUBMITTED TO DEPARTMENT OF SCIENCE & TECHNOLOGY, GOVT. OF INDIA.

EXT.P8 - TRUE COPY OF LETTER FROM SMT.J.LALITHAMBIKA, I.A.S., THE THEN CHAIRMAN, RUBBER BOARD.

EXT.P9 - TRUE COPY OF HAND BOOK ON IUT WITH INTRODUCTION BY DR.R.V.G. MENON THE THEN DIRECTOR OF IRTC.

EXT.P10 a & b. TRUE COPIES OF NEWS PAPER REPORTS PUBLISHED IN THE HINDU & ECONOMIC TIMES.

EXT.P11 - TRUE COPY OF PAPER PUBLISHED IN THE 19TH KERALA SCIENCE CONGRESS.

EXT.P12 - TRUE COPY OF PAPER REPORT WHICH APPEARED IN ECONOMIC TIMES DATED 6.2.2007.

EXT.P13 - TRUE COPY OF ARTICLE PUBLISHED IN THE MATHRUBHOOMI DAILY DATED 23.08.05 WITH ENGLISH TRANSLATION.

EXT.P14 - TRUE COPIES OF THE REPRESENTATIONS TO THE CHAIRMAN, RUBBER BOARD TO IMPLEMENT THE NEW IUT SYSTEM AND ALSO TO WITHDRAW THE TWO NEW CLONES RRII 414 & 430.

EXT.P15 - TRUE COPY OF ARTICLE BY Dr.N.M.MATHEW, DIRECTOR RRII WITH TRANSLATION OF THE RELEVANT PORTION.

EXT.P16 - TRUE COPY OF THE ARTICLE BY Dr.JAMES JACOB RRII ON RESEARCH FINDINGS OF THE PHYSIOLOGY DIVISION A REVIEW, WITH ENGLISH TRANSLATION OF RELEVANT PORTION.

EXT.P17 - SCIENTIFIC PAPER PUBLISHED ON PINK DISEASE MANAGEMENT IN THE INTERNATIONAL CONFERENCE.

EXT.P18 - TRUE COPY OF BROCHURE ON PINK DISEASE MANAGEMENT WITH ENGLISH TRANSLATION OF RELEVANT PORTION.

EXT.P19 - TRUE COPY OF PAGE NO.68 & 69 OF RUBBER GROWER'S COMPANION 2006.

EXT.P20 - TRUE COPY OF PAGE NO.74 TO 77 OF RUBBER GROWER'S COMPANION 2007.

EXT.P21 - TRUE COPY OF ARTICLE ON PREVENTION OF LEAF FALL DISEASE DURING RAINY SEASON BY P.G.SALIM KUMAR WITH ENGLISH TRANSLATION.

EXT.P22 - TRUE COPY OF ARTICLE IN THE MATHRUBHOOMI DATED 2.6.07 WITH ENGLISH TRANSLATION.

EXT.P23 - TRUE COPY OF NEWSPAPER REPORTS IN MATHRUBHOOMI, MADHYAMAM & HINDU.

EXT.P24 - TRUE COPY OF NEWSPAPER REPORT IN THE MATHRUBHOOMI DATED 1.6.07 WITH ENGLISH TRANSLATION.

EXT.P25 - TRUE COPY OF UPDATE ON COMPONENTS IMPLEMENTED BY RUBBER PRODUCTION DEPARTMENT UNDER THE WORLD BANK ASSISTED PROJECT.

EXT.P26 - TRUE COPY OF THE BIODATA OF THE PETITIONER.

EXT.P27 - TRUE COPY OF PHOTOGRAPHS OF TREES TAPPED UNDER IUT SYSTEM, 5 NOS. RENEWED BARK FREE FROM ANY TAPPING WOUNDS.

EXT.P28 - TRUE COPY OF LETTER FROM SRI.N.J.KURUVILLA KANJIRAMTTOM, RUBBER GROWER REPORTING ON YIELD AND TAPPING PANES DRYNESS.

EXT.P29 - TRUE COPY OF LETTER FROM THE ASSISTANT GENERAL MANAGER, PULLANGODE RUBBER AND PRODUCE COMPANY LIMITED ON THE RESULTS REPORTING YIELD INCREASE OF 38% AND 70% IN TWO CLONES.

EXT.P30. TRUE COPY OF LETTER FROM SRI.K.N.DEVADASHAN, RUBBER GROWER CONTAINING VALUABLE FEED BACK INFORMATION WITH ENGLISH TRANSLATION.

EXT.P31 - TRUE COPY OF LETTER FROM SMT.ROSAMMA PUNOOSE, RUBBER GROWER ON THE RESULT FROM THE DEMONSTRATION PLOT.

EXT.P32 - TRUE COPY OF REPORT ON RUBBER GROWER'S SEMINAR WITH ENGLISH TRANSLATION OF RELEVANT PORTION.

EXT.P33 - TRUE COPY OF A CARTOON PUBLISHED IN THE 'RUBBER' MAGAZINE OF THE RESPONDENT BOARD MISREPRESENTING THE IUT SYSTEM OF THE PETITIONER.

EXT.P34 - TRUE COPY OF THREE NOTES COMMUNICATING SANCTION FOR THE PROJECT.

EXT.P35 - TRUE COPY OF THE FULL ABSTRACT OF THE SCIENTIFIC PAPER SENT FOR PUBLICATION IN THE INTERNATIONAL CONFERENCE CONVENED BY THE RUBBER RESEARCH INSTITUTE.

EXT.P36 - TRUE COPY OF THE ARTICLE PUBLISHED BY THE PETITIONER ON IUT WITH ENGLISH TRANSLATION.

EXT.P37 - COPY OF A SUBMISSION BY THE PETITIONER TO DIRECTOR OF RESEARCH REGARDING THE PROJECT ON IUT AND ITS BENEFITS.

RESPONDENTS' EXHIBITS:-

EXT.R1(a) - TRUE COPY OF THE ORDER IN CMP.NO.23302/1987 DATED 24.10.1988 PASSED BY THIS COURT IN O.P.NO.9470 OF 1986.

EXT.R1(b) - TRUE COPY OF THE JUDGMENT DATED 9.11.1990 IN O.P.NO.9470/1986 PASSED BY THIS HON'BLE COURT.

EXT.R1(c) - TRUE COPY OF THE LEGAL NOTICE DATED 20.5.2006 ISSUED BY THE PETITIONER TO THE RESPONDENTS.

EXT.R1(d) - TRUE COPY OF THE REPLY DATED 4.7.2006 SENT BY THE RESPONDENTS TO THE LEGAL NOTICE.

EXT.R1(e) - TRUE COPIES OF PHOTOGRAPHS OF BOTH NORMAL DOWNWARD TAPPING AND INCLINED UPWARD TAPPING WHCIH DEMONSTRATE THE TECHNIQUE.

EXT.R1(f) - TRUE COPIES OF PHOTOGRAPHS SHOWING TAPPED FIELD WHERE IUT WAS PRACTICED FOR FIVE YEARS (1999-2003) IN COMPARISON WITH NORMAL DOWNWARD TAPPING AT CHITHALVETTY ESTATE OF STATE FARMING CORPORATION OF KERALA.

EXT.R1(g) - TRUE COPY OF THE LETTER DATED 24.4.1996 SENT BY THE MANAGER OF NEW AMBADI ESTATE TO THE PETITIONER.

EXT.R1(h) - TRUE COPY OF THE REPORT DATED 25.4.1996 OF THE COMMITTEE OF EXPERTS.

EXT.R1(i) - TRUE COPY OF THE LETTER DATED 21.4.2003 WRITTEN BY THE GENERAL MANAGER, PLANTATION CORPORATION OF KERALA.

EXT.R1(j) - TRUE COPY OF THE LETTER DATED 4.4.2000 ISSUED BY THE MANAGER, PLANTATION CORPORATION OF KERALA.

EXT.R1(k) - TRUE COPY OF THE REPORT OF SCIENTIST 2-3 AND PLANT PHYSIOLOGIST DATED 2.1.2003 EVIDENCING THE UNPRODUCTIVENESS OF IUT.

EXT.R1(l) - TRUE COPY OF REPORT SUBMITTED BY THE ASSISTANT DEVELOPMENT OFFICER DATED 1.1.2003 ON IUT.

EXT.R1(m) - TRUE COPY OF THE LETTER DATED 31.5.2001 ISSUED BY THE THEN DIRECTOR OF RESEARCH TO THE PETITIONER.

EXT.R1(n) - TRUE COPY OF THE LETTER DATED NIL, SENT BY THE PETITIONER.

EXT.R1(o) - TRUE COPY OF LETTER DATED 25.9.2007 FROM THE MANAGER, CHITHALVETTY ESTATE.

EXT.R1(p) - TRUE COPY OF LETTER DATED 17.10.2007 FROM THE MANAGER, CHITHALVETTY ESTATE.

EXT.R1(q) - TRUE COPY OF PHOTOGRAPH WHICH DEMONSTRATES THE DAMAGE CAUSED BY IUT IS IRREVERSIBLE.

EXT.R1(r) - TRUE COPY OF PHOTOGRAPH WHICH DEMONSTRATES THE DAMAGE CAUSED BY IUT IS IRREVERSIBLE.

- TRUE COPY -

H.L.Dattu, C.J. & K.M.Joseph, J.

W.P.(C).No.22250 of 2007-S

Dated, this the 12th day of December, 2007

JUDGMENT

K.M.Joseph,J.

The petitioner, who appears in person, has approached this Court seeking the following reliefs:

(1) To direct the respondents to adopt the IUT technology and transfer it to the growers with immediate effect so that in future the rubber trees are tapped only from the bottom upwards on an inclined panel parallel to the angle of inclination of the latex vessels and recommend the same to the growers forthwith.

(2) The respondents may be directed to ban the existing unscientific tapping technology DVT and the consequent CUT and LFT with the use of the hazardous chemical stimulant Ethrel with immediate effect which are responsible for low productivity high TPD incidence, health hazards and environmental pollution.

(3) To declare that the two new clones RRII-414 and RRII-430 released for large scale planting during 2006 and 2007 are to be taken out of recommendation with immediate effect as they are in effect “Terminator clones” to the existing clones RRII-105.

(4) To direct the respondents to restrain the growers from planting new clones namely RRII-414 and RRII-430 and also to replant their areas with clone RRII-105.

(5) To direct the I respondent to grant compensation to the rubber growers for the loss sustained by them on account of planting the new clones.

(6) To issue direction to safely maintain clone RRII-105 until and unless new clones with well proven higher productivity and disease tolerance are developed.

(7) To initiate appropriate legal actions against the persons/officials who are responsible for causing a loss of Rs.1500 crores to the industry by not propagating the highly yielding innovative technology to the growers in time.

(8) To direct III respondent to take proper action for the serious lapses on the part of respondents I and II in deviating from their statutory functions which resulted in irreparable damages to the industry".

2. According to the petitioner, she is a Scientist with 41 years of research experience. She is in possession of brilliant academic record all throughout with gold medal for her degree Course. She is a post graduate in Botany with over 150 publications to her credit. Her complaint is that though she has developed a new rubber tapping technology, known as "Inclined Upward Tapping" (I.U.T.), which is capable of bringing 'white revolution' in the field of rubber production, the Rubber Board is withholding it from the rubber growers with malicious intentions. She has also complained that Clone RRII-105 is facing a threat at present, as the Institute has started popularising two new clones - RRII-414 and RRII-430 - from 2006, which are far inferior with regard to productivity and disease tolerance. According to the petitioner, tapping as is being done, does not yield the maximum production. Rubber tapping is done, at present, from top to bottom. On the basis of her research, she would contend, if tapping is done from bottom upwards on an inclined panel parallel to the angle of inclination of the latex vessels, the results would be most beneficial to the rubber growers. She would, therefore, contend, on the basis of her research, that the Rubber Board is duty bound to implement the new I.U.T. method, which would be beneficial to the rubber growers.

3. We heard the petitioner and Sri.Joseph Kodianthara, learned counsel appearing for respondents 1 and 2.

4. Learned counsel appearing for respondents 1 and 2 would point out that the role of the Rubber Board is essentially advisory and the advise given by the Rubber Board is not binding as such on the growers and the growers are free to accept or reject it.

5. The petitioner has already filed Exhibit P14 - representations dated 21.02.2006 and 03.03.2006 - before the Chairman of the Rubber Board. We would think that at this stage, we need not go into the issues which have been raised by the petitioner and, instead, it would be apposite that a decision is taken by the 2nd respondent on Exhibits P14 representations.

6. In such circumstances, leaving open all the contentions of the petitioner, we direct the 2nd respondent to consider and take a decision on Exhibits P14 representations dated 21.02.2006 and 03.03.2006 within a period of two months from the date of receipt of a copy of this judgment.

The writ petition is disposed of as above.

H.L.Dattu
Chief Justice

K.M.Joseph
Judge

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